

TRADE AND BUSINESS ENTERPRISES MERGERS ACT

Act 19 of 1970 – 16 May 1970

ARRANGEMENT OF SECTIONS

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TRADE AND BUSINESS ENTERPRISES MERGERS ACT

1. Short title

This Act may be cited as the Trade and Business Enterprises Mergers Act.

2. Interpretation

In this Act—

“enterprise” means a trade or business for the supply of goods or services employing 20 or more persons;

“merger” means an arrangement or transaction by which 2 or more enterprises, at least one of which is operating in Mauritius or is under the control of a body corporate registered in Mauritius—

- (a) are brought under common ownership or control and cease to exist as distinct enterprises whether or not—
 - (i) any one of them ceases to operate; or
 - (ii) the enterprise to which any one of them formerly belonged continues to operate under the same or different ownership or control; or
- (b) combine the whole or part of their activities whether under a distinct designation or otherwise;

“Minister” means the Minister to whom responsibility for the subject of finance is assigned;

“new enterprise” means the enterprise created as a result of a merger.

3. Restriction on mergers

(1) Where 2 or more enterprises intend, by way of merger, to create a new enterprise and a person employed by any of the enterprises is likely, by reason of the merger, to lose his employment, no such new enterprise and

no such merger shall be created unless the Minister, on application made in the prescribed manner by the enterprises, gives his authorisation.

(2) The Minister may, having regard to—

- (a) the economical functioning of the enterprises intending to create the merger;
- (b) the employment of labour; and
- (c) the availability of goods and services in any area of Mauritius,

prohibit the proposed merger or authorise the proposed merger either conditionally or unconditionally.

(3) Where the Minister authorises a proposed merger subject to conditions, the enterprises shall not create or operate the merger unless the conditions imposed by the Minister are complied with.

(4) For the purpose of granting an authorisation under this section, the Minister may require any of the enterprises to furnish such information as he may require, and may appoint a board of inquiry consisting of one or more persons to investigate the matter and report to him.

(5) Where 6 months have elapsed after an application has been made to the Minister under subsection (1), and no decision has been communicated to the applicant, the proposed merger shall be deemed authorised.

4. Offences

Where a merger is created in breach of section 3 or of a condition imposed by the Minister—

- (a) —
- (b) the persons who were carrying on the trade or business of the enterprises which have so merged shall commit an offence and shall, on conviction, be liable to a fine not exceeding 10,000 rupees.

5. Regulations

The Minister may make such regulations as he thinks fit for the purpose of this Act.
